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*Via ECF & Email & FedEx Delivery*

June 30, 2016

Mr. Thomas S. Berg  
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Re: United States v. Asher Abid Khan, Cr. No. H-15-263-S

Dear Counsel:

Pursuant to Federal Rules of Evidence 702, 703 and 704 and Federal Rule of Criminal Procedure 16(a)(1)(G), the United States gives notice regarding four witnesses: James M. T. Morrison, Matthew Levitt, Ph.D., Eric Benn, and Scott Ma, who, it is anticipated, will testify in the pending matter and will testify as to certain topics that may be construed as expert opinion. The United States will forward copies of Mr. Morrison's, Mr. Levitt's, Mr. Benn's and Mr. Ma's *curricula vitae*, along with their written reports under separate cover.

**A. Morrison's Background & Summary of Testimony**

Mr. Morrison is a Computer Scientist with the Federal Bureau of Investigation (F.B.I.), assigned to the Cyber Crimes division of the Houston Field Office. Mr. Morrison has been employed with the F.B.I. for approximately 18 years. Mr. Morrison will testify as an expert as to cyber-related crimes in general, and specifically, about how communications are sent through the internet or through cellular phone messaging, and how those messages are specifically linked to an individual and specific piece of computer related hardware. Further, Mr. Morrison will testify in detail about Internet Protocol (I.P.) addresses, connectivity, internet activity, and I.P. related logs. In addition to his testimony related to web-based communications, Mr. Morrison will testify as to certain topics that may be construed as expert opinion. In his testimony, Mr. Morrison will explain the assessments of various records pertaining to on-line activity, I.P. logs and other unique identifying numbers. Mr. Morrison received his bachelor's degree in Computer Science from Colorado Tech, and has received a master's degree in Technical Management from the University of Phoenix. Mr. Morrison will testify as an expert in summarizing I.P. logs contained in the Facebook records for Asher Khan, Sixto Ramiro Garcia ("Abdullah Ali") and Mohamed Zuhbi ("Mohamed Ibn Albaraa"), interpreting phone records and data, and provide an expert opinion regarding the locations of the revenant I.P. address assigned to each defendants' Facebook logins and sessions. His testimony will also include the use of satellite dishes, Turkish and Syrian communication systems, and analysis regarding the Facebook messaging and approximate, locational data.

**B. Dr. Levitt's Background & Summary of Testimony**

Currently, Dr. Levitt is a senior fellow and director of terrorism studies for the Washington Institute of Near East Policy. He is also a lecturer at John Hopkins University where he teaches two graduate courses related to the subject of terrorism. His prior experience includes, among other things, his work as a counterterrorism intelligence analyst with the F.B.I., and his work as the Deputy Assistant Secretary for Intelligence and Analysis and Deputy Chief of the Office of Intelligence and Analysis in the United States Department of Treasury. Dr. Levitt also has an extensive history of publishing books, monographs, scholarly articles, and lecturing on the subject of international terrorism.

Dr. Levitt has employed social scientific skills and methodology to develop a basis of knowledge related to counterterrorism and the Islamic State of Iraq and the Levant ("ISIL") that is specialized, reliable, and will be helpful to the jury. Dr. Levitt's proficiency and expertise regarding counterterrorism and ISIL is informed by his education, research, and experience. He has been previously recognized as an expert by colleagues around the world, and by several federal courts, including a Federal District Court in the Northern District of Texas and the Fifth Circuit Court of Appeals. His opinion testimony offered in this case will be informed by his qualifications and experience, the information contained in the complaint and the indictment, and other information provided by the United States.

Dr. Levitt's testimony will focus on the background and activities attributed to ISIL, ISIL recruitment and recruitment facilitation tactics, foreign terrorist fighters and ISIL, and terrorist attacks attributed to ISIL between September 2013 and May 2015. Dr. Levitt will opine about the nature, structure, and tactics of ISIL. He will decode certain jargon used by the defendants and coconspirators, including jargon like "jihad," "shaheed," and "khalifa." He will provide background on pathways to radicalism or extremism, including indoctrination by "gateway extremist groups," and indoctrination by Internet-based extremist propaganda. Finally, he will provide background about the U.S. and international recognition and designation of ISIL as a terrorist group.

**C. Mr. Benn's Background & Summary of Testimony**

Mr. Benn has been involved in imagery analysis since joining the US Army in 1976. Following three years working Cold War tactical and theater Army imagery intelligence in Europe, he attended the University of Illinois and acquired a Master's Degree in Remote Sensing. Upon graduation in 1983 he joined the Defense Intelligence Agency as an imagery analyst. Mr. Benn is now the senior imagery analyst in the Intelligence Community and the Department of Defense. He serves as the principal advisor to the leadership of the Intelligence Community and the Department of Defense on the current and future geospatial intelligence ("GEOINT") substantive analysis, tradecraft, and the evolving analytic environment. Mr. Benn has been a Defense Intelligence Senior (Executive) since 1999. Mr. Benn has been qualified as an expert and testified in several federal district courts throughout the United States.

Mr. Benn's testimony will focus on several photographs recovered by the government from social media posted on Facebook by Sixto Ramiro Garcia ("Abdullah Ali") and Mohamed Zuhbi ("Mohamed Ibn Albaraa"). Specifically, Mr. Benn was able to determine the locations from where the photographs were taken, and his testimony will assist the jury in better understanding GEOINT and the process by which he was able to make that determination.

#### **D. S.A. Ma's Background & Summary of Testimony**

Scott Ma, is a Special Agent (S.A.) and Computer Forensics Examiner with the F.B.I. S.A. Ma, has been employed with the FBI since 2003. As described in his curriculum vitae, he is a certified forensic examiner, trained and experienced in conducting forensic examinations on computer devices. His duties include imaging, analyzing, and interpreting digital evidence. He has conducted over 400 hundred forensic examinations of digital devices and other media in over 200 cases since September 2007.

As part of his investigation in the above-captioned case, S.A. Ma examined numerous computers, cellular phones, and hard drives seized pursuant to a search warrant for the Khan home on May 26, 2015. After examining the seized items and corresponding digital images, he made written and digital reports of his findings, with attachments, which, if necessary, he will testify about at trial. His testimony, which would include his education, experience, and training, would also include the results and his findings regarding the evidence he examined and its significance and relevance to the case. Examples of the results and findings include "Google searches," use of Google Translate, Skype Chat messaging and other messaging applications extracted from Khan's computer and I-Phone. A specific example of this type of evidence includes the evidence of Google Translate being used on December 19, 2013, to translate from English to Arabic, the following statement:

"I want to join the jihad, but I live in Australia? How can I come? I don't speak Arabic, only english and urdu."

S.A. Ma will testify about evidence related to ownership and use of the defendant's computer and I-Phone. S.A. Ma will testify that he discovered evidence that the defendant used the computer, including but not limited to the following: the user account name "asher" and file folders corresponding to that user account name.

Regarding the above-referenced experts, the United States intends to offer summary charts and demonstrative exhibits to assist the jury, and will provide drafts to counsel as soon as they become available<sup>1</sup>.

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<sup>1</sup> The versions provided pre-trial are, as the name implies, "drafts" and are not to be used for cross examining the witness. A final version of the computations will be created during trial based upon the admitted evidence, and will be provided to counsel.

We will continue to abide by our discovery obligations as we prepare for trial.

Finally, pursuant to Rule 16(b)(1)(A), we hereby request reciprocal discovery, including copies of, and the opportunity to inspect, any documents within your possession and control which you intend to introduce as evidence in your case-in-chief at trial.

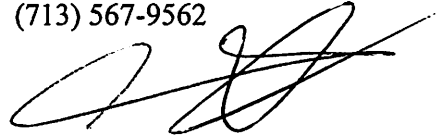
Please feel free to contact either of us, if you have any questions or concerns.

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